

## CARY'S PROTEST IS VOTED DOWN

Commander Threatens to Quit Unless Use of Armory Is Denied to Bazaars.

### COMMITTEE IGNORED HIM

Yields to Strong Pressure and Allows Fair to Open There, Despite Major.

Against the vehement protest of Major Hunsdon Cary, commanding the Richmond Battalion of the First Regiment, Virginia Volunteers, the Grounds and Buildings Committee last night allowed the use of the Seventh Street Armory to the Franciscan Sisters for a bazaar from September 20 to October 3. Major Cary admitted the superior authority of the committee, since the building is the property of the city, but put the situation in the strongest light, saying that either he was to have control as the military head of the battalion, or else he would get out and allow the committee to use the armory for bazaars and fairs, allowing the regiment, as an auxiliary to the city police force, to be disbanded. The lobbying by the applicants for the permit was the most vigorous and persistent seen in the City Hall for many months, and the action of the committee, a bare quorum of which was present, was unanimous.

Had Already Been Granted. It developed that the use of the armory for the bazaar in question had been granted by the committee at its August meeting, subject to the approval of the commanding officer of the battalion of the First Regiment, a permission which Major Cary had refused, notwithstanding the strongest pressure.

The bazaar is planned to raise money for replacing the Franciscan Home, on North First Street, which has recently been condemned by the Building Inspector and ordered down.

Mr. Don Leavy was the patron of the resolution granting the permission, ascertaining from the clerk that since 1900 the committee had adopted no set rules for the government of the armories. He took the ground that the committee, having given its consent, could not rescind that action, notwithstanding the position of Major Cary, and he moved that Major Cary be notified that permission had been granted for the use of the building from September 20 to October 3, free of all costs. After some debate the committee decided to grant the permission, though not until Mr. Don Leavy's motion had been carried unanimously, and then reconsidered merely that the major might be given a hearing.

Major Cary said that when he became the commanding officer of the First Virginia Regiment, realizing that bazaars and fairs were helpful to various church and charitable enterprises, he had granted his permission for the use of the armory to three organizations, but that the result of three experiences had been so great a demoralization of the military command, and so great an interruption to the service, that he had arrived at the conclusion that hereafter the armory must be used only for the purpose for which it was erected, or else be turned over entirely to the use of such organizations, and the military be abandoned.

He explained that it was with the utmost difficulty that the militia is kept recruited to the strength required by the government regulations, and said that in the past fifteen months the First Battalion of the First Regiment had been wonderfully improved in drill and efficiency. He said he had refused request after request for the use of the armory, naming three that had come in during the current week from churches of different denominations. Every effort, he said, had been made by the Franciscan Sisters, with whose object he had every sympathy, to make him change his mind, the sisters even recruiting the support of the Governor of Virginia, who had approached the major on the subject, and had been told, like the others, that his permission as military head of the battalion could not be secured, and that either the militia must be disbanded or its armory be used strictly for military purposes.

No Divided Authority. "If I am to be at the head of the militia," concluded Major Cary, "there must be no divided authority. I must have control of the armory, and everything in it."

I know the circumstances of this case, but cannot make any opinion. If it is to be used by one it must be by all, and I have requests already which would take half the time from now to Christmas from organizations



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which have the best of purposes, and which I would gladly aid. I wrote Father Hannigan more than a month ago that I could not consent, and they knew that I would oppose it. If you want an auxiliary police force of several hundred armed men, you must pay the cost. Either the Grounds and Buildings Committee is to be the head of the battalion, or I've got to be in command. It is for you to decide whether the armory is for military purposes or for church fairs."

Held Short Reception. Mr. Don Leavy continued his argument that the armory was the property of the citizens, who had enjoyed it for years, and said he would never vote to refuse any organization the use of the building for charitable purposes. His motion to grant the use of the building to the Franciscan Sisters from September 20 to October 3, free of cost, was adopted unanimously.

Rev. Father Hannigan, of St. Joseph's Church, expressed the thanks of the citizens and the business of the meeting was suspended for some time, while the committee shook hands with a number of women who had come in the interests of the application, while a number of Councilmen in attendance on other business, and several well-known citizens were present to lend their aid to the well-known charity. Mr. Don Leavy was the center for some time of an admiring crowd, which showered him with congratulations.

Wouldn't Raise His Salary. After again coming to order the committee took action instructing the Subcommittee on Buildings to provide a private office at the City Hall for Assistant City Attorney George Wayne Anderson, who as a former colonel of the First Regiment had been an interested spectator of the discomfiture of Major Cary. The committee also recommended the employment of an extra laborer at Taylor's Hill, and changed the name of that plot to Taylor's Park. An ordinance raising the pay of Park Keeper or Parater, of Jefferson Park, from \$75 to \$85 a month, was tabled, when it was shown that all other park keepers get \$85, and at William Byrd, who gets \$100, a month. Mr. Don Leavy said it was dangerous at this time to ask the Council for extra salary raises. Mr. Parater, however, was granted a furlough of ten days, this being within the province of the committee.

### GUNS BOOM IN HAMPTON ROADS

Further Honors Paid Mexican Vessel in American Waters. [Special to The Times-Dispatch.] NORFOLK, Va., September 16.—Dedicated in buntings as a mark of courtesy to the Mexican gunboat Morelos, now celebrating the birth of the Mexican republic as well as the seventy-ninth anniversary of the birth of President Diaz, the ships of the American fleet to-day presented a magnificent picture.

In further honor of the Mexican American ships three times to-day fired simultaneously a national salute of twenty-one guns, every ship flying the Mexican colors at her mainmast.

A rowing race to pick a crew to contest in New York for the Prince of Battenburg trophy, now held by the crew of the British cruiser Argyle, is scheduled for to-morrow. The Argyle won this in Hampton Roads in 1907.

Herndon Case at Rustburg. [Special to The Times-Dispatch.] LYNCHBURG, Va., September 16.—The case of Oscar Herndon, the fourteen-year-old negro, charged with an attack on a young white woman in Campbell county, will come up at Rustburg in the Circuit Court, to-morrow.

## FAR-REACHING COURT DECISION

Verdict for Defendant in Case Involving Employer's Liability Law.

### INSTRUCTIONS BY JUDGE

No Recovery for Damage Where Injured Workman Knows of Danger and Accepts It.

In accordance with instructions from Judge Ingram yesterday morning, the jury in the Law and Equity Court, without hearing argument and without leaving its seat, returned a verdict for the defendant in the suit of T. A. Lowry against W. S. Forbes & Co., the judge instructing the jury that there could be no recovery for damages where the injured party knew the danger and accepted it as a part of his employment. In the opinion of many of the attorneys present, the ruling of the court, if sustained, will put a check on the number of damage suits brought by employees for accidents in machine shops or similar places.

Made Motion to Set Aside. Counsel for Lowry made the usual motion to set aside the verdict as contrary to law and evidence, and it was continued for argument, the jury being dismissed.

Lowry was employed in the lard refinery of the firm of W. S. Forbes & Co., pork packers. According to the allegations of his witnesses, certain machinery was in an imperfect condition, and was so allowed to remain for some time, while still in use, as a result of which he was injured severely, necessitating the amputation of his right arm.

He claimed that the failure of the company to keep the machinery in repair constituted negligence, for which he asked damages in the sum of \$10,000.

It was shown by witnesses, and by the plaintiff's own admissions, that he had full knowledge of the condition of the machinery, and that he continued to operate it without complaining of the risk, or demanding repairs. The case involves the whole question of the liability of an employer, where the employee knows and assumes certain dangers incident to his work, and has been watched with interest by a number of attorneys.

The Court's Instructions. The whole issue depended on the instructions Judge Ingram, which were in part as follows:

"In no case can there be a recovery if the jury believes from the evidence that the danger of working where he was working, because of the close proximity of the sprocket wheel, and its unprotected condition, was known to the plaintiff at the time he was injured, or was known to him before that time, or was so open and obvious as to be readily discernible to one of ordinary intelligence, for one who continues to work at a dangerous machine, or in a dangerous place, after he becomes aware, or should in the exercise of reasonable care become aware, of the dangerous character of the place, in the absence of a promise on the part of the master to remedy the danger, assumes the risk of the danger."

"For if an employee knows of the defect in the machinery from which the injury happened, and yet remains in the service and continues to use the machinery, without giving any notice thereof to the employer, he must be deemed to have accepted the risk, and is not entitled to any recovery."

"A servant assumes not only all the risks incident to such employment, but all dangers which are obvious and apparent, and which are known to him, if he voluntarily enters into or continues in the service without objection or complaint, having knowledge, or the means of knowing, the dangers involved, he is deemed to assume the risk, and is not entitled to any recovery for damages against the master in the case of personal injury to him."

## PARADE TO START AT 10:30 A. M. TO-DAY

Sells-Floto Circus Will Give Great Street Show and Two Performances at Grounds.

Three long circus trains rolled into Richmond early this morning, and as soon as the cars were "spotted" the process of unloading was started. First came the "sleek and chair" wagon, which is the main wagon to go to the grounds and last to depart. Then the cookhouse outfit was hurried to the lot, followed by the stringer, pole and canvas wagons. Then the cages and parade chariots, etc., were rushed to the grounds.

It takes a regiment of laboring men to set up the great Sells-Floto White City, commonly called tents, in less than three hours, which is pronounced remarkable by those who have watched them. The big tent under the big circus city like this is one of the most interesting sights in the world. America is the great circus country, because nowhere else on the globe are the people so well supplied with money. The seal of approval has been placed upon this big tented enterprise in all of the big cities, and those who have never witnessed the performance of the circus features are all big hits, especially the Rhoda Royal Menagerie horses. The seal of approval has been placed upon this big tented enterprise in all of the big cities, and those who have never witnessed the performance of the circus features are all big hits, especially the Rhoda Royal Menagerie horses. The seal of approval has been placed upon this big tented enterprise in all of the big cities, and those who have never witnessed the performance of the circus features are all big hits, especially the Rhoda Royal Menagerie horses.

Two performances will be given to-day, at 2 and 8 p. m., the show being opened one hour earlier, which will admit of an inspection of the zoo and the Armour \$25,000 prize Big Six. A concert will also be rendered by the Park-Prentiss augmented military band during this period.

NEW STATE CHARTERS The following charters were issued yesterday by the State Corporation Commission:

St. Paul Water Company, St. Paul, Va. J. L. Kemmerer, president, New York, N. Y.; J. N. Giquet, vice-president.



**Tyler's**  
FIRST AND BROAD STS.  
INCORPORATED

## Boys' School Suits

Two pairs Knickerbocker pants with each suit. Well tailored in durable and neat woollens; cut nicely and very attractive for either school or dress. These are the usual \$5.00 values.

**SPECIAL OPENING PRICE, \$3.98**

Boys' Heavy Weave All-Blue Serge Knickerbocker Suits, cleverly tailored and very dressy. Special value for the money.

Boys' school wear of all kinds priced moderately.

dent, St. Paul, Va.; W. E. Decker, secretary and treasurer, New York, N. Y. Capital stock—Maximum, \$5,000; minimum, \$1,000. Objects—Water works to supply town of St. Paul.

Swive Buggy and Wagon Company, Inc., Richmond, A. W. Miller, president, Richmond; John A. Robertson, secretary and treasurer, Chesterfield; G. J. Cawley, vice-president, Chesterfield. Capital—Maximum, \$100,000; minimum, \$25,000. Objects—Manufacture of buggies, wagons, automobiles, flying machines, etc.

Henrico Realty, Inc., Richmond, N. W. Bowe, president; Bruce Bowe, vice-president; C. C. Bowe, secretary—all of Richmond. Capital—Maximum, \$10,000; minimum, \$5,000. Objects—Real estate business.

Oyster, Va. Capital—Maximum, \$15,000; minimum, \$4,000. Objects—Oyster business.

Marine Railway Corporation, Norfolk, A. Warren, president and treasurer, Norfolk; I. S. Warren, secretary, Norfolk; John H. Fletch, vice-president, South Norfolk. Capital—Maximum, \$50,000; minimum, \$20,000. Objects—Manufacture and repair river boats, tugs, etc.

Halifax County, E. B. Foote, president; A. A. Moore, vice-president; P. W. Witte, secretary and treasurer—all of Halifax. Capital—Maximum, \$500; minimum, \$200. Objects—To operate a ferry across Dan River.

John F. Wills, Inc., Norfolk, John F. Wills, president, Norfolk; N. S. Stewart, Brooklyn, N. Y.; Floyd Hughes, attorney, Norfolk. Va. Capital—Maximum, \$15,000; minimum, \$2,500. Objects—Lumber business.

Jones & Co., Inc., Norfolk, A. P. Jones, president; W. H. Jones, vice-president; E. B. Jones, secretary—all of Norfolk. Capital—Maximum, \$25,000; minimum, \$2,500. Objects—Warehousing business.

Land and Stock Corporation, Chesterfield county, C. F. Grossman, president; Marie Lyon, vice-president; C. Grossman, secretary and treasurer—all of Petersburg. Capital—Maximum, \$15,000; minimum, \$5,000. Objects—Real estate business.

## CASTORIA

For Infants and Children. The Kind You Have Always Bought Bears the Signature of *Dr. H. H. Plummer*

## Good Wood

Is my specialty, but, like most everything else, there are many grades. No matter what you are open for in the wood line I have it below the price you fully expect to pay.

It's mighty hard to tell the difference between good and bad wood, but I know it. It's this test that makes my wood sales show up so well. I just won't have anything but good wood, nor will you if you stick to me.

There's no difference in the cost of good and bad wood, but between the two there is a satisfaction in the face of the thirty household.

Long's wood promotes happiness! And Long has plenty of wood to burn.

**LONG,**  
THE WOODMAN,  
1201 West Broad Street,  
(Madison, 1909.)  
PHONES: Monroe 1320.

## 20 Years of Time

A long time, but only the average life for a watch. A dollar or two a year is very little when you think of the satisfaction of an all the time right watch.

And again we have watches which are good for twenty-five or thirty years or more.

Let us show you our reliable watches—such standard makes as the HOWARD, ELGIN, WALTHAM, ILLINOIS, HAMILTON, etc.

We are here to advise you as to the best watch fitted to your needs.

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Watchmakers,  
Fourteenth and Main Streets

**DROPSY** Cured; quick relief; removes all swelling in 8 to 10 days; no 60 days effects permanent cure. Trial treatment given free to sufferers. **DR. H. H. GREEN'S SON'S**, Box 8, Atlanta.

**Too Late to Classify** LOST, SILK VACUUM ROB, WITH ivory dog head and collar attached, engraved "A. S. G." Finder will please return to Times-Dispatch office and receive reward.

## THOMPSON BROWN FILES STATEMENT

Misunderstanding as to Law Responsible for Delay in Sending It Here.

### FLYING MACHINE CHARTER

Governor Makes No Decision in Boykin Case—News Items from Capitol.

Hon. John Thompson Brown, of Bedford county, the defeated candidate for the Democratic nomination for Commissioner of Agriculture in the recent primary, has forwarded a certified list of his campaign expenditures to the Secretary of the Commonwealth. Mr. Brown explains his delay in attending to this matter by saying that he had understood the law required these statements to be filed within thirty days before the regular election, instead of within thirty days after the primary. Mr. Brown had his statement ready on September 4, but did not send it in for the reason given.

The campaign cost of the Bedford candidate \$2,953.23. Of this amount he expended \$250 for primary fee, \$346.44 for printing, \$475 for advertising, \$239.10 for postage and stationery, \$259.91 for traveling, hotel and office expenses, and \$339.20 for personal expenses.

No other candidates have also sent in the required statements. They are W. H. Ewing, a contestant for the House of Delegates from Prince Edward county, and H. G. Robinson, the Republican nominee for the House from Giles county.

Mr. Ewing spent \$15.05. His printing bill consumed \$22.25; the primary assessment fee, \$30; horse and buggy, \$1.75, and postage, stationery, etc., \$7.05.

Robinson's nomination cost him nothing, he having been selected by a mass-meeting held at Wytheville on July 17.

Flying Machine Charter. Flying machines may now be manufactured in Richmond, a charter having been granted yesterday to a local concern for this purpose. However, the company has other privileges, and will not doubt exercise its right in their direction for some time to come.

The charter was issued to the Swivel Buggy and Wagon Company, Incorporated, of Richmond. The incorporators are A. W. Miller, president of this city; John A. Robertson, secretary and treasurer, of Chesterfield, and C. J. Cowley, vice-president, also of Chesterfield. The purpose as stated is the manufacture of buggies, wagons, automobiles, flying machines, etc. The minimum capital stock is \$25,000, and the maximum \$100,000.

Captain Willard Returns. Captain Joseph E. Willard, of the State Corporation Commission, returned to the city at noon yesterday from New York, where he has been attending his friend, F. W. Richardson, county clerk of Fairfax county. Mr. Richardson has been critically ill in a New York hospital for the past week, but after Captain Willard's return to Richmond yesterday afternoon he received a telegram announcing that Mr. Richardson was greatly improved.

No Decision in Boykin Case. Attorneys Daniel Coleman, of Norfolk, representing the prosecution, and R. C. L. Moncre, of Alexandria, for the prisoner, yesterday argued the Bertha Boykin restitution matter before Governor Swanson at the Capitol. The young woman, who is under arrest in Washington, D. C., is charged with the larceny of clothing in Norfolk, but claims that it was a case of purchase.

The Governor referred the matter to the Commonwealth's Attorney of Norfolk for investigation, and will act on the recommendation of that official.

Commissioners' Send Report. Revenue Commissioners J. K. McLaugherty, of Botetourt county, and S. A. Mann, Jr., of Chesterfield county, brought their annual reports and assessment books yesterday to the office of State Auditor Morton Mayre.

A number of commissioners' books have been received recently at the Auditor's office, but for the most part they are sent in by express.

Two Requisitions Honored. Willie Gowens, colored, who was arrested in Richmond as a fugitive from North Carolina, was yesterday taken back to Guilford county, N. C., by Special Agent J. F. Williamson, a requisition from Governor Kitchen having been honored by Governor Swanson.

Gowens is wanted for an assault upon one Mack Edwards with a pistol, the offense having been committed on a Southern Railway train on July 10 last.

A requisition from the same Governor was also granted yesterday for Grant Farmer, whose presence is desired in Caswell county, N. C., in answer to the charge of committing an assault with a deadly weapon on R. A. Pointer. Special Agent T. N. Fitch is designated to come to Virginia for the prisoner.

Maryus Jones Resigns. The resignation of Maryus Jones, of Newport News, as a member of the board of curators of the Hampton Normal and Agricultural Institute, at Hampton, was received yesterday at the office of the Secretary of the Commonwealth.

Mr. Jones states that as the law arm of which he is a member has been retained as counsel for the institute, it would be improper for him to longer continue as a member of the board.

Encampment at Fort Monroe. Fifty members of the first company and forty-four of the second reported for the encampment of Virginia coast artillerymen at Fort Monroe yesterday, according to information received yesterday by Adjutant-General Charles J. Anderson. A number of the men did not want to go and others seized them at their desks or elsewhere and bore them to the battlement.

By order of Governor Swanson and Adjutant-General Anderson, Captain James L. Cutbrell, of the Ordnance Department, is with the coast artillery to give them an assault upon the fort.

Captain McLean is in command of the first and Captain Matthews of the second company. The men will be in camp until Saturday, September 25.

Printing Awards To-Day. Public Printer D. W. B. put in hard day's work yesterday figuring the bids on the State printing, submitted Wednesday. He also awarded no contracts so far, but may be able to reach a decision to-day.

Norfolk After Camp Site. Norfolk is apparently getting excited over the purchase of a State camp ground and rifle range, for it has designated Assistant Secretary P. E. Yeat-

### Real Estate for Rent.

### Doctors, Attention!

In 321 W. Franklin Street we have Three Beautiful Offices. Are willing to change entrance for desirable tenant.

POLLARD & BAGBY,  
1102 E. Main Street.

### Auction Sales, This Day.

By Green & Redd, Real Estate Brokers and Auctioneers.

### Real Estate for Rent.

For a Boarding House OR TWO-FAMILY HOUSE, NOTHING BETTER.

No. 109 West Clay Street, fourteen rooms, \$40 month. Eight rooms, all conveniences, \$20 month.

904 West Marshall, eight rooms, all conveniences, \$18 month.

GREEN & REDD,  
1114 East Main.

### FURNISHED HOUSES FOR RENT.

A delightful Three-Story Brick Residence, No. 309 West Franklin Street, near the Commonwealth Club.

A beautiful Suburban Home, completely furnished, at Ginter Park, within three minutes' ride of Richmond on two electric lines; eight rooms, bath, electric lights; up to date in every detail. Rent, \$15.00 per month. May 1st, possibly sooner. Large grounds.

J. THOMPSON BROWN & CO.,  
FOR RENT.

That new and attractive brick dwelling, 2403 Grove Avenue

Nine rooms, with all modern improvements. An up-to-date home.

C. L. & H. L. DENNOON,  
821 East Main Street.

FOR RENT.

### 811 W. Main Street

Brick dwelling; 8 rooms; modern improvements.

C. L. & H. L. DENNOON,  
821 East Main Street.

FOR RENT.

### Auction Sales, This Day.

By Pollard and Bagby, Auctioneers.

### COURT SALE BY AUCTION

COTTAGE DWELLING, NO. 1129 NORTH TWENTY-SIXTH STREET.

In execution of a decree of the Chancery Court, city of Richmond, entered June 25, 1909, in suit of Taylor, guardian, et al., vs. Traylor et al., I will sell by auction, on the premises, on

THURSDAY, SEPTEMBER 16, 1909, at 5 o'clock P. M., the above mentioned frame dwelling, containing three rooms, lot 24 1/2 x 125 feet.

TERMS: Cash.

JOHN GARLAND POLLARD,  
Special Commissioner.

I certify that bond required by above decree has been given.

CHAS. O. SAVILLE, Clerk.

ON account of rain, the above sale is postponed until

FRIDAY, SEPTEMBER 17, AT 5 O'CLOCK.

By Richeson & Crutchfield, Real Estate Agents and Auctioneers.

### AUCTION SALE

OF THAT DESIRABLE THREE-STORY COTTAGE DWELLING

No. 112 Twentieth St.

BETWEEN FRANKLIN AND GRACE, ON

THURSDAY, SEPTEMBER 16, 1909, AT 5 O'CLOCK P. M.

The dwelling contains eight rooms besides bath, and is in elegant condition. It is a large two-story brick kitchen on the premises. This property will make a comfortable home or store and steady renter, yielding good returns on the investment.

TERMS: Liberal and announced at sale.

POSTPONEMENT. Above sale continued until

FRIDAY, 17TH INSTANT, SAME HOUR, on account of rain.

By Richeson & Crutchfield, Real Estate Agents and Auctioneers.

### Real Estate News

Permits were issued in the office of Building Inspector yesterday to W. J. Gilman, to erect eight brick stores

on the west side of Eighth Street, between Main and Franklin Streets. At ready Mr. Gilman has erected on this block two stores, and the work of pulling down the old residences that formerly occupied this space is now almost completed.

The stores will be two stories in height and will extend from the alley at the back of the Mitchell and Hotchkiss building to the corner of Franklin Street. It is expected that all the buildings will be ready for occupancy before the end of this year. It is estimated that they will cost \$25,000.

Within the last few months this block has undergone many changes. On the corner of Franklin and Seventh Streets, the temporary post-office has almost been completed, and will be ready to receive the post-office as soon as orders for removal are received from Washington.

A large force of men is now at work on the old Stumpf Restaurant, at the corner of Eighth and Main Streets, pulling it down to make way for a new eight-story hotel, which Mr. Stumpf proposes to build there as soon as possible.

On the Franklin Street side of this block, which was formerly occupied exclusively by residences, there are now only two of the old residences; the building of the Virginia Historical Society and that of the Young Woman's Christian Association. The whole length of Eighth Street from Cary Street to Broad is gradually being changed from a residential to a business street.

M. Selig Dixey, CHRISTINIA, NORWAY, September 16.—The death is announced of M. Selig, minister of public worship.

### Wood's Descriptive

### Fail Seed Catalog

now ready, gives the fullest information about all

Seeds for the Farm and Garden.